

Subpart C—Restructuring Plan

§ 401.400 Required elements of a Restructuring Plan.

(a) *General.* A PAE is responsible for the development of a Restructuring Plan for each project included in its PRA.

(b) *Required elements.* The Restructuring Plan must contain a narrative that fully describes the restructuring transaction. The Restructuring Plan must include the elements required by section 514(e) of MAHRA. The Restructuring Plan must describe the use of any restructuring tools listed at sections 517(a) and (b) of MAHRA, and must contain other requirements as determined by HUD.

§ 401.401 Consolidated Plans.

A PAE may request HUD to approve a Consolidated Restructuring Plan that presents an overall strategy for more than one project included in the PRA. HUD will consider approval of a Consolidated Restructuring Plan for projects having common ownership, geographic proximity, common mortgagee or servicer, or other factors that contribute to more efficient use of the PAE's resources. Notwithstanding the more efficient use of a PAE's resources, HUD will not approve any Consolidated Restructuring Plans that have a detrimental effect on tenants or the community, or a higher cost to the Federal Government.

§ 401.402 Cooperation with owner and qualified mortgagee in Restructuring Plan development.

A PAE must comply with section 514(a)(2) of MAHRA by using its best efforts to seek the cooperation of the owner and qualified mortgagee or its designee in the development of the Restructuring Plan. If the owner fails to cooperate (as demonstrated by reasonable progress in development of a Restructuring Plan) to the satisfaction of the PAE and HUD agrees, the PAE must notify the owner that the PAE will not develop a Restructuring Plan. This notice will be subject to dispute and administrative appeal under subpart F of this part. If the qualified mortgagee does not cooperate in modifying the mortgage, the PAE and

owner may continue to develop a Restructuring Plan to restructure the loan using alternative financing.

§ 401.403 Rejection of a request for a Restructuring Plan because of actions or omissions of owner or affiliate or project condition.

(a) *Ongoing determination of owner and project eligibility.* Notwithstanding an initial determination to accept the owner's request for a Restructuring Plan, the PAE is responsible for a further more complete and ongoing assessment of the eligibility of the owner and project while the Restructuring Plan is developed. The PAE must advise HUD if at any time any of the grounds for rejection listed in paragraph (b) of this section exist.

(b) *Grounds for rejection—*(1) *Suspension or debarment.* Neither a PAE nor HUD will continue to develop or consider a Restructuring Plan if, at any time before a closing under § 401.407, the owner is debarred or suspended under part 24 of this title.

(2) *Other grounds.* HUD may elect not to permit continued consideration of the Restructuring Plan at any time before closing under § 401.407, if:

(i) An affiliate is debarred or suspended under part 24 of this title;

(ii) HUD or the PAE determines that the owner or an affiliate has engaged in material adverse financial or managerial actions or omissions as described in section 516(a) of MAHRA, including any outstanding violations of civil rights laws in connection with any project of the owner or affiliate; or

(iii) HUD or the PAE determines (under § 401.451(c) or otherwise) that the project does not meet the housing quality standards in § 401.558 and that the poor condition of the project is not likely to be remedied in a cost-effective manner through the Restructuring Plan.

(3) *Exception for sale.* This paragraph does not apply (except (2)(iii)) if a sale or transfer is proposed under § 401.480.

(c) *Dispute and appeal.* An owner may dispute a rejection under this section and seek administrative review under the procedures in subpart F of this part.